

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, *et al.*,)
)
Plaintiffs,)
)
v.) Case No. 05-cv-329-GKF-SH
)
TYSON FOODS, INC., *et al.*,)
)
Defendants.)

**DEFENDANTS' MOTION TO
CERTIFY INTERLOCUTORY APPEAL UNDER 28 U.S.C. § 1292(b)**

For the reasons set forth in the accompanying brief, Defendants respectfully ask the Court to certify its January 2023 Findings of Fact and Conclusions of Law, ECF No. 2979, and its June 2024 order denying Defendants' Motion to Dismiss, ECF No. 3023, for interlocutory appeal under 28 U.S.C. § 1292(b). Both orders implicate the same "controlling question of law," *id.*: whether district courts have the authority to grant injunctive relief on a stale record. *Id.* While this Court answered that question in the affirmative, there are "substantial ground[s]" for the Tenth Circuit to disagree, *id.*, since (i) the controlling question raises novel, difficult issues under justiciability doctrines and the law of remedies and (ii) other courts have declined to grant prospective relief under analogous circumstances. Finally, an interlocutory appeal stands to hasten the "ultimate termination of the litigation," *id.*, saving the Court and the parties considerable time and resources. Certification is thus warranted.

September 20, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 20, 2024, I caused this document to be filed with the Clerk of Court through CM/ECF, which will serve copies on all registered counsel.

/s/ Gordon D. Todd

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